

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Eric Kohli,

Plaintiff

v.

Ajay G. Dayal, et al.,

Defendants

Case No. 2:20-cv-00538-CDS-NJK

Order Issuing Sanctions

This action was brought by plaintiff Eric Kohli, a lawyer representing himself pro se, for the payment of money allegedly owed due to performance of an employment contract. Kohli sued defendants Ajay G. Dayal, Quantified Investment Group LLC, Quantified Capital Group, Pacific Bay Lending Group, and Miss Elegant Expo for defendants' refusal to pay Kohli's salary and wages after he performed two months' work for defendants. *See generally* First am. compl., ECF No. 17. This case proceeded to a four-day jury trial against Dayal only on November 18, 2024. At the conclusion of the trial, the jury returned a verdict in favor of Kohli.

Following the trial, on January 17, 2025, I issued an order to show cause against Kohli requiring him to respond and explain why he should not be sanctioned for repeatedly failing to comply with the court's orders not to introduce improper character/bad act evidence before first proffering it to the court. OTSC, ECF No. 238. Kohli retained counsel¹ and filed a timely response to the show-cause order, which was accompanied by a declaration from Kohli. Resp., ECF No. 244.

¹ See Notice of appearance, ECF No. 243.

1 **I. Background**

2 As set forth in the order to show cause, neither party filed a motion with the court
3 regarding the introduction of character and/or bad act evidence prior to the start of trial. ECF
4 No. 238.² On the second day of trial, after considering improper statements made during opening
5 statements on the first day of trial, I addressed the parties and reminded them that an order of
6 the court is neither optional nor something that can casually be referenced in front of the jury,
7 then directly disregarded. I further reminded the parties that neither side had moved in limine to
8 introduce any character/bad act evidence, yet both parties had referred to character evidence
9 during their openings. The parties were admonished that further improper statements would
10 result in sanctions. Both parties indicated on the record they understood the court's orders.

11 Later that day, and despite the admonition I had given the parties at the start of the
12 second day of trial regarding inappropriately referencing character evidence in opening
13 statements, Kohli asked one of his witnesses, on direct examination, a series of questions
14 suggesting that Dayal scammed him out of a commercial real estate deal which was completely
15 unrelated to the issues at trial. As part of that exchange, Kohli asked the witness to explain
16 what happened. In his responses, the witness told the jury that the defendant, Dayal, took
17 \$115,000 from him and never returned it and that Dayal had "cheated" a real estate deal. Kohli
18 directly asked the witness about him being "cheated" and "scammed."³

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21 ² The show cause order is incorporated into this order as if fully set forth herein.

22 ³ As set forth in the rough transcript, Kohli posed the following questions to the witness: (1) "Okay. So
23 this particular time when you were upset when the -- when the -- when you realized the deal that -- **that**
24 **you'd been cheated**, you came in. Did you see me in there that -- that day?" (emphasis added); (2) "I'm
25 talking about your interaction with me directly. We had -- the jury understands that this is a **bad deal**
26 but when you came in the office, you saw me in the office. You're all upset. Mr. Dayal is hiding. What
happened between you and I?" (emphasis added); (3) Okay. Did you get an impression at any time that I
was part of this, you know, **scamming you out of your money from Mr. Dayal?**" (emphasis added); and
(4) [Witness], you sent an e-mail, right? And this is -- give me just a second. Okay. You sent an e-mail. I'm
sorry. It's not part of the exhibits. But you sent an e-mail and I -- the e-mail I'm referring to, **you said I've**
been cheated and scammed by Quantified Investment Group, blah, blah, blah. Do you remember
sending that e-mail?" (emphasis added).

1 Specifically, the witness was also asked the following question:

2 MR. KOHLI: "Based on your knowledge and what you have seen and
3 witnessed and heard, is Mr. Dayal a menace to the South
Asian Community?"

4 The court instructed the witness not to answer the question and recessed the trial for the day.

5 Because of the aforementioned character evidence Kohli introduced while questioning his
6 witness, the court provided the jury a limiting instruction before releasing them for the day.

7 That instruction cautioned the jury that they had heard alleged bad acts committed by the
8 defendant but those allegations were not part of this case, so the only evidence they could

9 consider was testimony related to the witness's knowledge of Kohli's relationship to Dayal, and

10 only to the degree that evidence was relevant to the specific causes of action. The jury was also

11 instructed that Dayal was not on trial for any of the allegations lodged by the witness. Once the

12 jury left the courtroom, the court canvassed the parties on administrative questions related to

13 the trial, and specifically asked Kohli if he intended to introduce additional allegations of alleged

14 bad acts/character evidence about Dayal. I cautioned Kohli that his introduction of bad acts

15 character evidence was improper, so he was ordered to instruct his witnesses not to testify

16 about alleged bad acts committed by Dayal, and I admonished Kohli for failing to seek

17 permission from the court before introducing the evidence.

18 On the start of the third day of trial, I had the following exchange with Kohli:

19 THE COURT: I again caution you regarding eliciting any bad act or
20 character evidence. In fact, before you elicit any questions
21 about any bad acts or character evidence, I'm going require
a proffer at sidebar.

22 MR. KOHLI: Okay. Judge, just so the court knows, there were questions
23 regarding that in my outline for these witnesses. I've taken
it out. Just as a caution.

1 Despite this exchange, and the prior day's admonition, approximately one hour later, the
2 following exchange occurred between Kohli and one of his witnesses, who is a publicly elected
3 official:

4 THE WITNESS: Yes. So Mr. Dayal would call me and just, you know -- I had
5 other issues dealing with trust and some -- some problems
6 that came up --

7 MR. KOHLI: Regarding. I'm sorry to interrupt. Regarding this case.

8 MR. DAYAL: Objection, your Honor. Relevance.

9 THE COURT: I'm overruling that objection. However, I'm going to go
10 back. The question was: Did Mr. Dayal ever contact you
11 about this trial? You said, yes, many times. And the next
12 question was what did he say. You can answer that
13 question.

14 THE WITNESS: Okay. So Mr. Dayal would respond with a lot of different
15 things. You know, we had an issue with trust and fraud that
16 had come up and I was trying to fix this issue and then he
17 would always bring up this case as a -- it was something --
18 he said he won this case multiple times and that there was
19 no need to go to trial and all this -- I mean, it was a -- on
20 going -- it was constantly just talking about -- about . . .

21 MR. KOHLI: [Witness], did he ever talk to you or say anything about this
22 particular judge?

23 THE WITNESS: Yes. Yes.

24 MR. KOHLI: Can you tell us what he said?

25 THE COURT: No.

26 MR. DAYAL: Objection, your Honor.

THE COURT: Sidebar.

At sidebar, Kohli was again admonished about the order I gave approximately one hour before
this line of questioning was presented in front of the jury, as it was clear the line of questioning
was directed towards suggesting the defendant attempted to improperly influence the witness

1 and allegedly attempted to influence this court. When asked why Kohli would elicit this line of
 2 questioning, he responded: “Judge, Mr. Dayal contacted [the witness] because of his political
 3 affiliations to impact the judge or to influence the judge and I think it’s relevant for the jury to
 4 hear.” I told Kohli that this was character evidence he was required to proffer to the court before
 5 attempting to elicit that sort of testimony from witnesses in front of the jury, to which he
 6 responded, “I’m sorry.”

7 The court took a recess to determine how it should proceed considering Kohli’s repeat
 8 violations of my orders regarding the introduction of character evidence. Before bringing the jury
 9 back into the court, I made the following statement to Kohli:

10 [Y]ou are representing yourself. But are you a member of the bar. You are
 11 dangerously close to being reported to the state bar based on your conduct during
 12 the course of this trial. I’ve never in my time as a judicial officer had to repeatedly
 13 say my orders are not optional. And yet, I’ve had to say it in this trial. I have to say
 it again and the blatant disregard of the rules and your obligations under the
 professional rules of conduct is unacceptable.⁴

14 II. Discussion

15 Pursuant to its inherent power, a court may assess sanctions against parties and counsel
 16 for a variety of forms of misconduct, including the “willful disobedience of a court order.”
 17 *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45 (1991); *Alyeska Pipeline Serv. Co. v. Wilderness Soc’y*, 421 U.S.
 18 240, 258 (1975). Before awarding sanctions under its inherent powers, however, the court must
 19 make an explicit finding that counsel’s conduct “constituted or was tantamount to bad faith.”
 20 *Roadway Express v. Piper*, 447 U.S. 752, 767 (1980). A “specific finding of bad faith . . . must precede
 21 any sanction under the court’s inherent powers.” *Id.* at 767; *see also Zambrano v. Tustin*, 885 F.2d
 22 1473, 1478 (9th Cir. 1989); *Fink v. Gomez*, 239 F.3d 989, 992 (9th Cir. 2001).

23 In Kohli’s response to the show-cause order, he proffers that he appeared pro se on behalf
 24 of himself and emphasizes that he is not an experienced trial attorney, but rather one whose
 25 practice was focused on patent and trademark work. ECF No. 244 at 1. He further notes that it

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⁴ This, and the other quotes included in this order, are from the rough transcript of the trial proceedings.

1 was his first trial, that he believed he sufficiently understood trial protocols and the applicable
2 rules, that he did not intend to violate this court's orders, that he lacked trial experience and
3 substantive knowledge to guide himself in accordance with this court's orders, and that he did
4 not have any intent to violate those orders. *Id.* Kohli apologizes to the court for his errors and
5 notes he will not "disrespect this Court by stating" that he should not be sanctioned. *Id.* at 2; *see*
6 *also* Kohli dec., Pl.'s Ex. 1, ECF No. 244-1 at ¶ 10. As evidence of his embarrassment and
7 acceptance of responsibility for his errors, Kohli registered, and was in the process of
8 completing, an additional Continuing Legal Education (CLE) refresher regarding the Federal
9 Rules of Evidence, with an emphasis on Rule 404, when the response to the show cause order
10 was filed. *Id.* at 2; *see also* CLE certificate, Pl.'s Ex. 2, ECF No. 244-2. Kohli further volunteers to
11 complete other courses as ordered by the court, and notes that retention of counsel is further
12 evidence of his sincere regret. ECF No. 244 at 4–5.

13 The court appreciates Kohli's response and accepts his apology as sincere. But the
14 question before the court is not whether Kohli's apology is sincere, but rather if Kohli's conduct
15 was, or tantamount to, bad faith at the time he engaged in it. Unfortunately, I find that it was
16 tantamount to bad faith for two reasons. First, Kohli was warned at least twice he was not
17 entitled to any special leniency because he, himself, is an attorney. *See* ECF No. 103 at 1 n.2 ("The
18 Court again notes that Plaintiff has not hired an attorney in this matter, but that his filings are
19 not entitled to any special leniency because he himself is an attorney." (collecting cases)); ECF
20 No. 136 at 3 (same). Although a sincere request, Kohli's response to the show cause order in part
21 asks for special leniency because he lacked trial experience. The court understands some
22 practitioners may lack courtroom experience in comparison to others, and the court makes
23 accommodations accordingly. But even taking that into account, that does not explain away the
24 second reason I find that Kohli's conduct was tantamount to bad faith. Just one hour after being
25 admonished *again* that his introduction of bad act/character evidence was improper, and again
26 being reminded that he was ordered to instruct his witnesses not to testify about alleged bad

1 acts committed by the defendant, he nonetheless questioned his witness about a specific act:
2 whether the defendant had attempted to contact me, as the presiding judge, in some attempt to
3 influence me. To the extent this was some sort of attempt to attack Dayal's character for
4 truthfulness, which is wholly unclear, it was not only procedurally improper because Dayal had
5 not yet testified, but by failing to proffer the evidence to the court, it defied my order, and it also
6 deprived me of the ability to determine, in my discretion, whether it was probative and/or
7 relevant and, if relevant, if it was even admissible, or if it was more prejudicial than probative. See
8 Fed. R. Evid. 608(a) ("[E]vidence of truthful character is admissible only after a witness's
9 character for truthfulness has been attacked.") and 608(b)("[T]he court may, on cross-
10 examination, allow [the witness's prior acts] to be inquired into if they are probative of the
11 character for truthfulness or untruthfulness of . . . the witness . . . or . . . another witness whose
12 character the witness being cross-examined has testified about."); Fed. R. Evid. 403 (permitting
13 the court to exclude relevant evidence if its probative value is substantially outweighed by the
14 danger of unfair prejudice, confusion of the issues, misleading the jury, amongst other factors).
15 At the time Kohli defied this order, he (1) had been admonished twice about introducing
16 improper character evidence, (2) had been ordered to proffer any character evidence before
17 introducing it, and (3) was present when I instructed the jury that Dayal was not on trial for any
18 of the allegations lodged against him by a prior witness but only for the causes of action in the
19 complaint. Stated otherwise, Kohli was given numerous warnings and instructions about how
20 to comport and abide by the rules of evidence and this court's orders but chose to defy them
21 repeatedly. This is evidence that his conduct was tantamount to bad faith, especially given he
22 engaged in the conduct against an unrepresented party, so sanctions are warranted here.

23 Because the court accepts the apology and the acceptance of responsibility from Kohli
24 was sincere, the court issues the following sanctions:

- 25 (1) Kohli must provide proof he completed the CLE class he was enrolled in at the time
26 he filed his response to the show cause order (ECF No. 244 at 2; ECF No. 244-2);

(2) Enroll in and complete a basic trial advocacy class offered through the State Bar of Nevada, NITA,⁵ or an equivalent program; and

(3) File a certification with the court that he has reviewed all the Nevada Rules of Professional Conduct, to include Rule 4.3, which addresses dealing with unrepresented persons.

Kohli must complete these requirements by November 19, 2025.

III. Conclusion

IT IS HEREBY ORDERED that the show cause order [ECF No. 238] is discharged.

IT IS FURTHER ORDERED that by November 19, 2025, Eric Kohli must:

- (1) Provide proof he completed the CLE class he was enrolled in at the time he filed his response to the show cause order (ECF No. 244 at 2; ECF No. 244-2);
- (2) Enroll in and complete a basic trial advocacy class offered through the State Bar of Nevada, NITA, or an equivalent program; and
- (3) Certify to the court that he has reviewed all the Nevada Rules of Professional Conduct, to include Rule 4.3, which addresses dealing with unrepresented persons.

Dated: May 19, 2025



Cristina D. Silva
United States District Judge

⁵ See <https://www.nita.org/s/> (last accessed on May 14, 2025).